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**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

9 STATE OF WASHINGTON,

NO.

10 Plaintiff,

11 v.

COMPLAINT FOR INJUNCTIVE
AND OTHER RELIEF UNDER
THE CONSUMER PROTECTION
ACT AND CHARITABLE
SOLICITATIONS ACT

12 AUTISM AWARENESS UNITED, a/k/a
13 AUTISM AWARENESS WASHINGTON,
14 f/k/a AUTISM AWARENESS
15 NORTHWEST; ENCORE MARKETING
GROUP, INC.; JOSEPH W. SEARLES;
RENA R. SEARLES; the marital community
of JOSEPH W. SEARLES and RENA R.
SEARLES,

16 Defendants.

17 Plaintiff, State of Washington, by and through its attorneys Robert W. Ferguson,
18 Attorney General, and Sarah A. Shifley, Assistant Attorney General, brings this action against
19 the Defendant named below. The State alleges the following on information and belief:

20 **I. PLAINTIFF**

21 1.1 The Plaintiff is the State of Washington.

22 1.2 The Attorney General is authorized to commence this action pursuant to
23 RCW 19.09.340, RCW 19.86.080, and RCW 19.86.140.

24 **II. DEFENDANTS**

25 2.1 Defendant Autism Awareness United (“AAU”) is a Washington non-profit
26 corporation. AAU is located in Olympia, Washington, and conducts business in King and
other counties. AAU solicits and collects charitable contributions for charitable or purportedly

1 charitable purposes from the general public in the state of Washington. AAU is also known as
2 “Autism Awareness Washington” and was formerly known as “Autism Awareness
3 Northwest.”

4 2.2 Defendant Joseph W. Searles is President of AAU, and as such, he controls or
5 has control over its policies, activities, and practices, including those alleged in this Complaint.
6 Joseph W. Searles was previously the President of the now-terminated commercial fundraiser,
7 The THR Group, Inc. Joseph W. Searles is married to Rena R. Searles and together they
8 constitute a marital community. All actions taken by Joseph W. Searles as alleged in this
9 Complaint are for the benefit of his marital community. Joseph W. Searles resides in Olympia,
10 Washington and transacts or has transacted business in the state of Washington.

11 2.3 Defendant Rena R. Searles is a Director of AAU, and as such, she controls or
12 has control over its policies, activities, and practices, including those alleged in this Complaint.
13 Rena R. Searles was previously the president of a now-terminated for-profit commercial
14 fundraiser, Associated Services of Washington, Inc. Rena R. Searles is married to Joseph W.
15 Searles and together they constitute a marital community. All actions taken by Rena R. Searles
16 as alleged in this Complaint are for the benefit of her marital community. Rena R. Searles
17 resides in Olympia, Washington and transacts or has transacted business in the state of
18 Washington.

19 2.4 Defendant Encore Marketing Group, Inc. (“Encore”) is a for-profit corporation
20 incorporated in the state of Washington by Defendant Joseph W. Searles on May 2, 2012.
21 Encore was registered as a commercial fundraiser with the Secretary of State Charities
22 Program from May 4, 2012 until November 20, 2012. Upon information and belief, Encore
23 solicited donations in Washington on behalf of AAU.

24 2.5 Defendants have acted and continue to act in concert and cooperatively in
25 carrying out the conduct alleged in this Complaint and each is responsible for the unlawful
26 conduct alleged herein.

1 6.2 On October 27, 2003, Defendant Joseph W. Searles incorporated The THR Group,
2 Inc. (“THR”) as a for-profit commercial fundraising corporation. Between October 27, 2003 and
3 March 4, 2010, Defendants solicited charitable contributions through THR on behalf of the
4 Washington Fire Fighters’ Association and The Autism Society of Washington even though THR
5 was not yet registered as a commercial fundraiser with the Secretary of State. Defendants did not
6 register THR as a commercial fundraiser with the Secretary of State until March 4, 2010.

7 6.3 On April, 29, 2010, Defendant Rena R. Searles incorporated Associated Services
8 of Washington, Inc. (“ASW”) as a for-profit commercial fundraiser. At no time has ASW been
9 registered as a commercial fundraiser with the Secretary of State although they had a fundraising
10 contract with The Autism Society of Washington between May1, 2010, and September 27, 2010
11 and continued to solicit on behalf of The Autism Society of Washington after the contract ended
12 until December 2010.

13 6.4 Defendant AAU has solicited charitable contributions on behalf of Autism Family
14 Support Foundation, a charitable organization, and in doing so has acted as a commercial
15 fundraiser on the latter’s behalf. However, AAU is not, and has never been, registered as a
16 commercial fundraiser with the Secretary of State.

17 6.5 The conduct described above violates the Charitable Solicitations Act,
18 RCW 19.09.065. Pursuant to RCW 19.09.340, violations of the Charitable Solicitations Act are
19 per se violations of the Consumer Protection Act, RCW 19.86.

20 6.6 Notwithstanding RCW 19.09.340, the conduct described in paragraphs 6.1 through
21 6.4 has the capacity to deceive a substantial number of consumers and constitutes unfair or
22 deceptive acts or practices in trade or commerce and unfair methods of competition, which are
23 contrary to the interest and therefore violates RCW 19.86.020 of the Consumer Protection Act.

24 **VII. SECOND CAUSE OF ACTION**
25 **(Conducting Solicitations as a Charitable Organization without Registration)**

26 7.1 Plaintiff realleges Paragraphs 2.1 through 6.6.

1 7.2 Between late 2011 and early 2012, Defendants conducted business and solicited
2 contributions under the name, "Autism Awareness Northwest." At no time did the defendants
3 register or make any filing with the Secretary of State regarding Autism Awareness Northwest."

4 7.3 On August 31, 2010, Defendants registered the charitable organization "Autism
5 Awareness Washington" with the Secretary of State. Prior to that time, however, Defendants
6 conducted solicitations under the name "Autism Awareness Washington."

7 7.4 The conduct described above violates the Charitable Solicitations Act,
8 RCW 19.09.065. Pursuant to RCW 19.09.340, violations of the Charitable Solicitations Act are
9 per se violations of the Consumer Protection Act, RCW 19.86.

10 7.5 Notwithstanding RCW 19.09.340, the conduct described in paragraphs 7.1 through
11 7.3 has the capacity to deceive a substantial number of consumers and constitutes unfair or
12 deceptive acts or practices in trade or commerce and unfair methods of competition, which are
13 contrary to the interest and therefore violates RCW 19.86.020 of the Consumer Protection Act.

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15 **VIII. THIRD CAUSE OF ACTION**
16 **(Misrepresenting That Paid Solicitors Are Volunteers)**

17 8.1 Plaintiff realleges Paragraphs 1.1 through 7.4.

18 8.2 Defendants posted internet advertisements seeking to employ "fundraising
19 representatives," i.e., solicitors, stating that the solicitor would be paid \$80-\$100 per day
20 depending on performance.

21 8.3 Defendants have instructed solicitors soliciting donations on behalf of AAU to tell
22 donors and potential donors that they are volunteers or words of similar meaning or effect.

23 8.4 Upon Defendants' instruction, solicitors have told donors and potential donors that
24 they are volunteers and not paid solicitors despite the fact that they are paid.

25 8.5 The conduct described above violates RCW 19.09.100(12) as currently and
26 previously enacted. Pursuant to RCW 19.09.340, violations of the Charitable Solicitations Act are
per se violations of the Consumer Protection Act, RCW 19.86.

1 8.6 Notwithstanding RCW 19.09.340, the conduct described in paragraphs 8.1 through
2 8.4 has the capacity to deceive a substantial number of consumers and constitutes unfair or
3 deceptive acts or practices in trade or commerce and unfair methods of competition, which are
4 contrary to the interest and therefore violates RCW 19.86.020 of the Consumer Protection Act.

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6 **IX. FOURTH CAUSE OF ACTION**
7 **(False, Misleading, and Deceptive Statements in Solicitations)**

8 9.1 Plaintiff realleges Paragraphs 1.1 through 8.6.

9 9.2 Defendants have instructed solicitors to falsely represent in oral solicitations for
10 donations that 100 percent of donations go to help families with autism.

11 9.3 Defendants have directly or indirectly encouraged solicitors to tell potential donors
12 that the solicitors have family members diagnosed with autism when in fact many do not.

13 9.4 Defendants have instructed solicitors to state or otherwise create the impression
14 that they are unpaid volunteers when in fact solicitors are paid.

15 9.5 The conduct described above violates RCW 19.09.100(15). Pursuant to
16 RCW 19.09.340, violations of the Charitable Solicitations Act are per se violations of the
17 Consumer Protection Act, RCW 19.86.

18 9.6 Notwithstanding RCW 19.09.340, the conduct described in paragraphs 9.1 through
19 9.4 has the capacity to deceive a substantial number of consumers and constitutes unfair or
20 deceptive acts or practices in trade or commerce and unfair methods of competition, which are
21 contrary to the interest and therefore violates RCW 19.86.020 of the Consumer Protection Act.

22 **X. FIFTH CAUSE OF ACTION**
23 **(Failure to Maintain Books, Records, and Contracts)**

24 10.1 Plaintiff realleges Paragraphs 1.1 through 9.6.

25 10.2 Defendants have not kept accurate, current, and readily available records of daily
26 cash donations received by AAU or its gross revenues.

 10.3 Defendants have failed to maintain accurate, current, and readily available records
of the total value of funds expended by AAU for charitable purposes.

1 10.4 Defendants have failed to maintain accurate, current, and readily available records
2 of AAU's expenses, including fundraising costs and administrative expenses.

3 10.5 Defendants have failed to retain true and correct copies of written contracts
4 between AAU and commercial fundraisers that solicit on AAU's behalf, including between AAU
5 and The THR Group, Inc.

6 10.6 Defendants have failed to retain true and correct copies of written contracts
7 between Encore and charitable organizations for which Encore solicits contributions.

8 10.7 The conduct described above violates RCW 19.09.200(1) and (2) as currently and
9 previously enacted. Pursuant to RCW 19.09.340, violations of the Charitable Solicitations Act are
10 per se violations of the Consumer Protection Act, RCW 19.86.

11 10.8 Notwithstanding RCW 19.09.340, the conduct described in paragraphs 10.1
12 through 10.6 has the capacity to deceive a substantial number of consumers and constitutes unfair
13 or deceptive acts or practices in trade or commerce and unfair methods of competition, which are
14 contrary to the interest and therefore violates RCW 19.86.020 of the Consumer Protection Act.

15 **XI. PRAYER FOR RELIEF**

16 **WHEREFORE**, Plaintiff, State of Washington, prays for relief as follows:

17 11.1 That the Court adjudge and decree that Defendants have engaged in the conduct
18 complained of herein.

19 11.2 That the Court adjudge and decree that the conduct complained of constitutes
20 unfair or deceptive acts and practices and unfair methods of competition contrary to the public
21 interest and is unlawful in violation of the Consumer Protection Act, RCW 19.86.

22 11.3 That the Court adjudge and decree that the conduct complained of violates the
23 Charitable Solicitations Act, RCW 19.09, and therefore violates the Consumer Protection Act, per
24 se.

25 11.4 That the Court issue a permanent injunction enjoining and restraining Defendants,
26 and their representatives, successors, assigns, officers, agents, servants, employees, and all other

1 persons acting or claiming to act for, on behalf of, or in active concert or participation with
2 Defendants, from continuing or engaging in the unlawful conduct complained of herein.

3 11.5 That the Court assess civil penalties, pursuant to RCW 19.86.140, of up to two
4 thousand dollars (\$2,000) per violation against Defendants for each and every violation of
5 RCW 19.86.020 caused by the conduct complained of herein.

6 11.6 That the Court make such orders pursuant to RCW 19.86.080 as it deems
7 appropriate to provide for restitution to consumers of money or property acquired by Defendants
8 as a result of the conduct complained of herein.

9 11.7 That the Court make such orders pursuant to RCW 19.86.080 to provide that the
10 plaintiff, State of Washington, have and recover from Defendants the costs of this action,
11 including reasonable attorneys' fees.

12 11.8 For such other relief as the Court may deem just and proper.

13 DATED this 8th day of February, 2013.

14
15 ROBERT W. FERGUSON
16 Attorney General

17 
18 SARAH A. SHIFLEY, WSBA #39394
19 Assistant Attorney General
20 Attorneys for Plaintiff
21 State of Washington
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